Single Bench

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR (C.G.)

CIVIL REVISION NO. 119 /2006

APPLICANT
DEFENDANT
JUDGEMENT
DEBTOR

1. Roop Sai son of Shri Sundar, aged about 58 years,

2. Vimal Kumar Rathore, aged about 35 years, son of Shri Sunder

3. Bodh Ram Rathore, aged about 55 years, son of Shri Sundar

4. Shriram Rathore, aged about 34 years son of Shri Komal Sai.

5. Mulwa, son of Shri Komal Sai, aged about 40 years,

6 Jugari Bai, wife of Shri Milaye, daughter of Komal Sai, aged about 40 years,

Applicant No.1 to 6 are the resident of Nawapara, village Bacharwar, Tah. Pendra Road, Distt. Bilaspur (C.G.)

7 Ram Rati, aged about 45 years, wife of Shri Hira Lal, daughter of Komal Sai. Resident of village Chorbhatti, Post Jatahri, District Sahdol (M.P.)

P.R. No. 2229/06 Presented by Shri Yogendra Chaturvedi dated 05/09/06

VERSUS

RESPONDENTS
DECREE HOLDER
PLAINTIFF
JUDGEMENT
DEBTORS
DEFENDANT

1 Shiv Prasad, son of Sudarshan Rathore, aged about 58 years,

2. Tula Ram, aged about 45 years, son of Shri Sundar,

3. Nan Bai alias Chakarbati, wife of Bali Ram, daughter of Sundar,

4 Shiv Prasad alias Shobha, aged about 45 years, son of Komal Sai,

All are residents of Nawapara, Bacharwar, Tah. Pendra Road, District Bilaspur (C.G.)

MEMO OF REVISION UNDER SECTION 115 OF THE CIVIL PROCEDURE CODE, 1908

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(32)

आदेश पत्रक

मामला क्रमांक C.R.119 **सन्** 2006

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	28.8.2006 **Shri Yogendra Chaturvedi, counsel for the applicants.** **Heard on admission.** **This is a revision filed under Section 115 of the Code of Civil Procedure against order dated 9.5.2006 (Annexure A-1) passed by the Executing Court in execution case No.134-A/1986, whereby the said Court dismissed the objection raised by the judgment debtor against the decree for specific performance of an agreement, saying that there is also a construction over the disputed land and the specific performance cannot be ordered on this ground.** **A perusal of the impugned decree, passed in the First Appeal, would show that the decree relates to specific performance of an agreement to sale pertaining to 2 plots bearing Khasra No. 976/1, area 0.020 hectares and Khasra No. 977/1, area 0.109 hectares. The decree does not say about any super-structure etc. over the suit premises. The Executing Court dismissed the objection, holding that the decree relates to specific performance of an agreement regarding execution of a sale-deed in favour of the decree holder pertaining to these lands and the decree cannot be frustrated on the ground that a super-structure is also situated on the said land or it has been constructed during the pendency of the suit or appeal. The objection which was filed under Section 47 of the Code of Civil Procedure was dismissed by the Executing Court.**	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Amita	**It is settled principle of law that the Executing Court cannot go beyond the terms of decree while dealing with an objection under Section 47 of the Code of Civil Procedure. In the opinion of this Court, the Executing Court committed no error of law while dismissing such an objection raised by the judgment debtor at the execution stage.** **There is no merit in the revision. The same is summarily dismissed at the motion stage without notice to the other side.** **Sd/-** **Sunil Kumar Sinha** **Judge**	